

BOARD OF APPEALS CASE NO. 5327

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BEFORE THE

APPLICANT: Brian J. Ramsel, Jr.

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ZONING HEARING EXAMINER

REQUEST: Variance to allow an addition to a non-conforming building to extend closer to the lot line than the existing building; 3500 Clayton Road, Joppa

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 1/29/03 & 2/5/03

HEARING DATE: March 10, 2003

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Record: 1/31/03 & 2/7/03

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Brian J. Ramsel, Jr., requests a variance, pursuant to Section 267-20 of the Harford County Code, to allow an addition to a non-conforming building to extend closer to the lot line than existing building in an AG/Agricultural District.

The subject parcel is located at 3500 Clayton Road and is more particularly identified on Tax Map 61, Grid 3B, Parcel 569, Lot 2. The parcel consists of 0.482 acres, is zoned AG/Agricultural and is entirely within the First Election District.

Mr. Brian Ramsel appeared and testified that he wants to add an addition to his existing home to provide additional space for his growing family. The existing home is 960 square feet and he plans to construct a 20 foot by 36 foot addition that will provide an additional 720 feet of living space. The witness indicated that his parcel is a corner property subject to two front yard setback requirements. Additionally, the location of the existing well and septic system require that he place the new addition closer to the property line than would otherwise be necessary. The witness explained that a placement of the addition in a manner not requiring a variance would put the foundation of the new structure 5 feet from the well, a condition not generally allowed by the Department of Health. The existing house is setback 36 feet and the new addition will be setback 21 to 23 feet along an angled property line. The Applicant indicated that the new addition and existing home will have a matching appearance with regard to roof and siding materials and he plans to add additional landscaping to the property. In the Applicant's opinion, no adverse impacts to adjoining properties would result from a grant of the variance.

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Mr. Dennis Sigler appeared as representative of the Department of Planning and Zoning. The Department finds the property unique. It is a corner lot and less than ½ acre despite its Agricultural zoning. The existing well and septic system coupled with the corner configuration of the parcel require that any addition be moved closer to the setback line than the existing home. Mr. Sigler agreed that the proposed location was the most appropriate one for the addition. The Department found the proposed addition compatible with existing structures in the neighborhood and zone and did not find that adverse impacts would result. Mr. Sigler agreed that structures should be placed as far away from wells as possible. The side of the parcel on which the structure is to be located borders Shirley Avenue, thus allowing adequate separation between the proposed use and the property located on the other side of the road (a total of 46 feet is provided when the roadbed is included). This distance allows the addition to be placed as proposed without impairing the purposes of the Code to provide adequate open space between structures.

There were no persons that appeared in opposition to the request.

CONCLUSION:

The Applicant, Brian J. Ramsel, Jr., requests a variance, pursuant to Section 267-20 of the Harford County Code, to allow an addition to a non-conforming building to extend closer to the lot line than existing building in an AG/Agricultural District.

Harford County Code Section 267-20 provides:

“Nonconforming buildings, structures and uses.

Nonconforming buildings, structures or uses may be continued, subject to the following provisions:

- A. No nonconforming use shall be changed to a use not permitted by this Part 1 in the particular district in which the building or structure is located, except:
 - (1) If no structural alterations are made, a nonconforming use of a building may be changed to a similar or more-restricted use of the same or lesser intensity.
 - (2) Whenever a nonconforming use has been changed to a more-restricted use, such use shall not thereafter revert to a less-restricted use.

- (3) When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.
- B. Any residential use may be continued and may be enlarged without increasing the number of dwelling units therein, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.
 - (1) Residential uses, when located in an industrial district, may be enlarged, provided that the enlargement does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity. Expansion is permitted, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.
 - (2) A mobile home located in a residential district may be replaced with one of a larger size, provided that the enlargement does not exceed fifty percent (50%) of the gross square footage of the mobile home in use at the time of the creation of the nonconformity.
- C. In the event that a nonconforming use ceases for a period of one (1) year or more, then the nonconforming use shall be deemed abandoned, and compliance with this Part 1 shall be required. The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.
- D. Any nonconforming building or structure which is damaged by less than fifty percent (50%) of its replacement value may be reconstructed to its former dimensions on the same lot and with the same nonconforming use. Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any building or structure declared to be unsafe.
- E. An accessory structure located on a residential lot or agricultural parcel shall be considered a nonconforming structure subject to the provisions of this Article if it meets the following conditions:
 - (1) The accessory structure was located prior to September 1, 1982.
 - (2) An approved zoning certificate was not obtained for the location of such structure.
 - (3) The accessory structure otherwise conforms to the requirements of Ordinance No. 6 of 1957.

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The Harford County Code, pursuant to Section 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner, for the reasons stated by the Applicant and the Department of Planning and Zoning, agrees that the subject parcel is unique. It is a corner lot that is constrained by two front yard setbacks. Additionally, the existing well location mandates the placement of the proposed addition closer to the setback line than the existing house. The addition is a reasonably sized one and appears in all respects to be compatible with other homes and uses in this neighborhood. No adverse impacts will result from a grant of the variance.

The Hearing Examiner, therefore, recommends approval of the request, subject to the condition that the Applicant obtain any and all necessary permits and inspections.

Date APRIL 9, 2003

**William F. Casey
Zoning Hearing Examiner**